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HOUSE BILL NO. 2536

Offered January 12, 2005

Prefiled January 12, 2005

A BILL to amend and reenact §§ 51.1-1112, 51.1-1113, 51.1-1123, and 51.1-1124 of the Code of Virginia, relating to long-term disability.

Patron—Ingram

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-1112, 51.1-1113, 51.1-1123, and 51.1-1124 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-1112. Long-term disability benefit.

A. Long-term disability benefits for participating employees shall commence upon the expiration of a ~~180-calendar-day~~ 125-work-day waiting period. The waiting period shall commence the first day of the disability. If an employee returns to work for 14 or fewer consecutive calendar days during such ~~180-calendar-day~~ 125-work-day waiting period and cannot continue to work, the periods worked shall not be deemed to have interrupted the ~~180-calendar-day~~ 125-work-day waiting period. However, if the cause of the participating employee's disability is a major chronic condition, as defined by the Board or its designee, the ~~180-calendar-day~~ 125-work-day waiting period is cumulative from the first day of the disability and can be interrupted by periods of active employment.

B. Except as provided in subsection D and § 51.1-1131, long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives long-term disability benefits shall (i) not include salary increases awarded during the period covered by long-term disability benefits and (ii) be increased annually by an amount recommended by the actuary of the Virginia Sickness and Disability Program and approved by the Board.

D. An employee's disability credits shall be used, on a day for day basis, to extend the period an employee receives long-term disability benefits paid at 100 percent of replacement of creditable compensation.

E. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii) partial disability.

F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

§ 51.1-1113. Successive periods of long-term disability.

A. A participating employee's disability which is related or due to the same cause or causes as a prior disability for which long-term disability benefits were paid shall be deemed to be a continuation of the prior disability if the employee returns to a position on an active employment basis for less than ~~180~~ 125 consecutive ~~calendar~~ work days. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for ~~180~~ 125 consecutive ~~calendar~~ work days or longer, any succeeding period of disability shall constitute a new period of disability.

§ 51.1-1123. Supplemental long-term disability benefit.

A. Supplemental long-term disability benefits for participating employees shall commence upon the expiration of a ~~180-calendar-day~~ 125-work-day waiting period. The waiting period shall commence the first day of the disability. If an employee returns to work for 14 or fewer consecutive days during such ~~180-calendar-day~~ 125-work-day period and cannot continue to work, the periods worked shall not be deemed to interrupt the ~~180-calendar-day~~ 125-work-day waiting period. However, if the cause of the participating employee's disability is a major chronic condition, as defined by the Board or its designee, the ~~180-calendar-day~~ 125-work-day waiting period is cumulative from the first day of the disability and can be interrupted by periods of active employment.

B. Except as provided in subsection D and § 51.1-1131, supplemental long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives supplemental long-term disability

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59 benefits shall (i) not include salary increases awarded during the period covered by long-term disability
60 benefits and (ii) be increased annually by an amount recommended by the program actuary and
61 approved by the Board.

62 D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an
63 employee receives supplemental long-term disability benefits paid at 100 percent of replacement of
64 creditable compensation.

65 E. Payments of supplemental long-term disability benefits payable under this article shall be reduced
66 by an amount equal to any benefits paid to the employee under the Act, for which the employee is
67 entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.

68 F. Supplemental long-term disability benefits shall be payable only during periods of total and partial
69 disability.

70 G. To be eligible for benefits under this section, the employee must apply for Social Security
71 disability benefits.

72 § 51.1-1124. Successive periods of long-term disability.

73 A. A participating employee's disability which is related or due to the same cause or causes as a
74 prior disability for which supplemental long-term disability benefits were paid shall be deemed to be a
75 continuation of the prior disability if the employee is eligible for benefits payable under the Act,
76 whether or not he is receiving such benefits, and returns to a position on an active employment basis for
77 less than ~~180~~ 125 consecutive ~~calendar~~ work days. Days of work arranged pursuant to vocational,
78 rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period
79 of the employee's return to work.

80 B. If a participating employee returns to a position on an active employment basis for ~~180~~ 125
81 consecutive ~~calendar~~ work days or longer, any succeeding period of disability shall constitute a new
82 period of disability.